

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

REBECCA KLUG,
Plaintiff,

v. Civil Action No. 3:18-cv-00711
Judge Robert C. Chambers

MARSHALL UNIVERSITY
BOARD OF GOVERNORS,
and FARID B. MOZAFFARI, an individual,

Defendants.

The deposition of PAULETTE S. WEHNER, M.D., was taken under the Federal Rules of Civil Procedure in the above-entitled action before Joseph M. Miller, a Certified Court Reporter and Notary Public within and for the State of West Virginia, on the 22nd day of January 2020, commencing at 10:06 a.m., at the law offices of Oxley Rich Sammons, 517 9th Street, Suite 1000, Huntington, West Virginia, pursuant to notice.

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I N D E X

Witness	Examination	Re-Examination
Paulette S. Wehner, M.D.	7 (Whiteaker)	126 (Whiteaker)
	120 (Oxley)	128 (Oxley)
		129 (Whiteaker)
		129 (Oxley)

E X H I B I T S

Wehner Deposition Exhibits	Marked
No. A, Rule 30(b)(6) Amended Notice of Deposition	4
No. B, Letter to Plaintiff's Counsel	4
No. C, Letter from Plaintiff's Counsel	5
No. D, Surgery Resident Handbook 2015-2016	20
No. E, GA-1 Policy	27
No. F, Policy HR-5	30
No. G, Policy on Resident Fellow Appeal Procedure	30
No. H, Resident/Fellow Due Process	35
No. I, Policy on Resident/Fellow Appeal Procedure	41
No. J, Letter	48
No. K, Text Messages and Interrogatory Response	51

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ALSO PRESENT: Rebecca Klug, Plaintiff

No. L, E-Mail	56
No. M, E-Mail dated June 20, 2015	62
No. N, E-Mail and Letter	65
No. O, Letter and Answers	68
No. P, Office of Equity Programs Complaint	70
No. Q, Letter dated March 18, 2016	71
No. R, First Second Year Documents	77
No. S, Second Second Year Documents	86
No. T, Defendant's Second Supplemental Responses	Off Record
No. U, ACGME Letter	114
No. V, Remediation Plan for 2015	121
No. W, Timeline of Requirements and Deadlines	122

Reporter's Certificate 131/132
Signature Page 133
Errata Sheet 134

Page 25

1 particular, policies that would relate to discrimination,
2 retaliation –
3 **A The graduate medical education office has**
4 **policies online regarding all of that. So any graduate**
5 **medical education policies obviously apply and are there for**
6 **the residents.**

7 Q Okay. Do the Marshall University policies
8 also apply, the general Marshall University policies?

9 MR. OXLEY: I'm going to object to that as
10 outside the scope of this and overly broad in this context.
11 I don't think she's prepared for that question on policies
12 at Marshall University.

13 You know what I mean? We've got policies
14 that are very – there's lots of different policies at Marshall
15 University, so whether they all apply in this context or not
16 would take me probably a month to figure out.

17 BY MS. WHITEAKER:

18 Q And I don't want to know every policy, but
19 there are – I mean the graduate medical education program is
20 within Marshall University; is that correct?

21 **A Marshall University School of Medicine, yes.**

22 Q Yes. So Topic No. 5 was "the policies
23 applicable to surgical residents related to discrimination,
24 equal treatment, medical leave, disability, harassment,

Page 27

1 BY MS. WHITEAKER:

2 Q The graduate medical education policies we
3 know apply to surgical residents, right?

4 There's also policies that I've seen that are
5 employee policies, Marshall University employee policies.
6 Do you think that surgical residents are considered employees
7 for the purposes of those policies?

8 **A No.**

9 Q Surgical residents do get paid, don't they?

10 **A They get a stipend.**

11 Q So if they're not considered employees, are
12 they considered more like students?

13 **A Yes, with an educational stipend.**

14 Q Title IX applies to surgical residents,
15 correct?

16 **A Yes.**

17 Q The policies of the Board of Governors, the
18 Marshall Board of Governors, do those apply to surgical
19 residents?

20 MR. OXLEY: Objection. What policies of
21 the Board of Governors?

22 MS. WHITEAKER:

23 Q Let me show you one and we'll see what we're
24 talking about here, okay?

Page 26

1 retaliation, and bullying."

2 So I mean it was in the Notice, but if there
3 are certain things you don't know, then obviously just tell
4 me that. That's okay. We'll figure it out if there's some
5 other way to figure it out. But I'm just trying to figure
6 out what policies a surgical resident could look to, to
7 determine what their rights are or what policies they're
8 under?

9 MR. OXLEY: Okay. So No. 5, just to be
10 clear, I think our understanding was we were talking about
11 residency program. I don't dispute the fact that that's a
12 part of Marshall University, so I think that's a little bit
13 of a gray area.

14 To the extent she knows, she can answer, but
15 candidly, that's a broad question, you know what I mean. It's
16 hard for – are you looking for anything in particular, like
17 Title IX or something like that? That might help.

18 MS. WHITEAKER: Yes. I mean Title IX, I
19 think is part of it. I just want to – you know, that's one
20 of the things I want to make sure we all agree applies to
21 surgical residents is Title IX, that policy, so I mean that's
22 one of the questions. But let me just ask and we'll see how
23 far we get, and if you don't know something, you can tell us
24 that you're not prepared on a certain area.

Page 28

1 MS. WHITEAKER: Mark that one E.
2 (WHEREUPON, Wehner Deposition
3 Exhibit No. E, GA-1 Policy, was
4 marked for identification.)

5 BY MS. WHITEAKER:

6 Q So you have in front of you Exhibit E. It's
7 titled "Marshall University Board of Governors Policy GA-1."
8 I'll give you a second to look through that.

9 **A (Witness examines document.)**

10 Q Are you familiar with this policy?

11 **A No.**

12 Q Okay. Does this policy apply to surgical
13 residents?

14 MR. OXLEY: You can answer to the extent that
15 you know.

16 THE WITNESS: Based on first seeing this
17 policy, I would say yes.

18 BY MS. WHITEAKER:

19 Q Is there a policy under the graduate medical
20 education system that's similar to this one?

21 **A Yes.**

22 MR. OXLEY: I want to also raise an objection
23 to this. There's someone who's designated on Title IX and
24 these policies here, and that's Debra Hart, for the rest of